

No. 23-1078

**In the United States Court of Appeals
for the Fourth Circuit**

B.P.J., by her next friend and mother; HEATHER JACKSON,

Plaintiffs-Appellants,

v.

WEST VIRGINIA STATE BOARD OF EDUCATION; HARRISON COUNTY BOARD OF EDUCATION; WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION; W. CLAYTON BURCH, in his official capacity as State Superintendent; DORA STUTLER, in her official capacity as Harrison County Superintendent,

Defendants-Appellees,

and

THE STATE OF WEST VIRGINIA; LAINEY ARMISTEAD,

Intervenors-Appellees.

On Appeal from the United States District Court for the Southern District of West Virginia, No. 2:21-cv-00316
The Honorable Joseph R. Goodwin, Judge

MOTION OF AMICUS CURIAE INDEPENDENT WOMEN'S LAW CENTER FOR LEAVE TO FILE BRIEF SUPPORTING APPELLEES AND AFFIRMANCE

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May 3, 2023

The Independent Women's Law Center (IWLC) moves for leave to file the attached *amicus* brief in support of Defendants-Appellees and affirmance. Fed. R. App. P. 29(a).

This motion is unopposed. All parties except for Defendant-Appellee the West Virginia Secondary School Activities Commission (WVSSAC) consented to the filing of IWLC's *amicus* brief. WVSSAC took no position on the filing of the brief, and stated that it does not intend to file an opposition.

INTERESTS OF *AMICUS CURIAE*

IWLC is a project of Independent Women's Forum (IWF), a nonprofit, non-partisan 501(c)(3) organization founded by women to foster education and debate about legal, social, and economic policy issues. IWF promotes access to free markets and the marketplace of ideas and supports policies that expand liberty, encourage personal responsibility, and limit the reach of government, especially with respect to matters of particular concern to women. IWLC supports this mission by advocating for equal opportunity, individual liberty, and women's sex-based rights. Equal opportunity for girls and women to compete in sports

is an issue of great significance to IWLC, and *Amicus* writes to offer its expertise on that important issue.

REASONS FOR PERMITTING THE *AMICUS* BRIEF

The attached brief explains the harm reversal would pose to women and girls' athletics. Title IX was enacted to expand educational opportunities for women and girls, including in athletics—not to reduce them. Interpreting Title IX to require schools to open up girls' teams to biological males would defeat that purpose.

Amicus submits this brief to explain the public interest in single-sex sports, to detail the harms caused by this Court's injunction against West Virginia Code § 18-2-25d(c)(1) ("Sports Act"), and to explain how reversal would undermine the legal rationale for any single-sex athletic teams. Those issues are critical to the proper interpretation of Title IX and the Equal Protection Clause and the disposition of this case.

CONCLUSION

For the foregoing reasons, the Court should grant the motion for leave to file the *amicus curiae* brief of Independent Women's Law Center.

Dated: May 3, 2023

Respectfully submitted,

s/ Gene C. Schaerr

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limits of Fed. R. App. P. 27(d)(2)(A) because it contains 332 words, excluding the portions exempted by the rules. The brief's typesize and typeface comply with Fed. R. App. P. 32(a)(5) and (6) because it was prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook, 14-point font.

Dated: May 3, 2023

s/ Gene C. Schaerr
Gene C. Schaerr